

# Kentucky Real Estate NEWS

A Publication of the Kentucky Real Estate Commission



## Renewal Deadline *Mark Your Calendar!*

It's that time of year again! It's time for **ALL** licensees, both active and escrow, to renew their real estate licenses. Many licensees have already renewed, but more than 65% of our licensees have not renewed. We encourage licensees not to wait until the end of the month. Below are some key renewal reminders:

**Everyone Must Renew!** Every license must be renewed each year in March regardless of license status.

**Renew Conveniently Online!** Go to the KREC home page ([krec.ky.gov](http://krec.ky.gov)), click on the "Online Licensing Services" tab and enter your license number and the last 4 digits of your social security number.

**Forgot Your License Number?** Click on the "Licensee Database" tab, search your name, and click on the orange "Details" tab.

**What are the Renewal Fees?** All licensees are required to pay a \$60 renewal fee. Processing the renewal payment online also includes a \$5.00 portal fee. Active licensees are required to either purchase group E&O insurance or provide proof of coverage on Form #500. More information about group E&O can be found on page 6.

**Principal Brokers Must Register and Renew First!** Active licensees will not be allowed to renew until the principal broker with whom they are affiliated has registered the firm(s) and renewed his or her license. KREC encourages principal brokers to renew early to avoid delayed renewal for their affiliated licensees.

**RENEWAL DEADLINE IS MARCH 31, 2015**  
Renewals received after 3/31/2015 include a \$100 fine.  
Renewals received after 5/16/2015 include a \$200 fine.

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### KREC Will Be Closed:

**April 3, 2015**  
*(Good Friday  
One-Half Day)*

&  
**July 3, 2015**  
*(Independence Day)*



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### **Commissioners**

**James H. Huff, Chair**  
Ft. Mitchell

**Bob Roberts, Vice-Chair**  
Richmond

**Linda Gibson Cecil**  
Louisville

**Kimberly Sickles**  
Louisville

**Dana W. Anderson**  
Louisville

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Executive Director

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Denise Wade, Staff Attorney  
Patricia Farris  
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Director of Administration

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Tracy Delgado  
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## **Comments from the Chair**

by: **James H. Huff,**  
**Chair**



### ***House Bill 149 Pending Final Senate Action***

This article is a follow-up and update of previous reports regarding House Bill 149, relating to post-licensing education for new real estate licensees. I am pleased to report that House Bill 149 has passed the Kentucky House of Representatives and is currently pending in the Senate. The bill is scheduled for a final Senate vote on Monday, March 23rd.

Major provisions of the legislation include:

- \* Defining "post-license education" as forty-eight (48) hours of Kentucky Real Estate Commission ("KREC") approved education required within two (2) years of receiving or activating an initial sales associate license;
- \* The law would only apply to a licensee who is issued an initial sales associate license after the effective date of the Act (January 1, 2016);
- \* The classroom or online hours approved by the KREC shall be:
  - (a) Provided by one or a combination of the following:
    - 1. An accredited institution; or
    - 2. A KREC-approved real estate school or broker-affiliated training program; and
  - (b) Within two (2) years of receiving or activating his or her license, unless the time period is extended by the KREC for good cause shown;
- \* The license held by any licensee failing to complete his or her sales associate post-license education requirement shall be automatically canceled; and
- \* The KREC is required to promulgate regulations to establish procedures for implementing the provisions of the Act.

Nearly half of the real estate licensing jurisdictions require some form of post-license education. The hours required in those various jurisdictions range from three (3) to one hundred and twenty (120) hours.

KREC recently conducted a review of all of its disciplinary actions from the years 2004 to 2013 and found that out of 377 disciplinary actions, 172 were issued to persons who had been licensed for ten (10) years or less. These numbers reveal that 45% of disciplinary actions are being taken against newer real estate licensees. The goal of post-licensing education would be to bolster the knowledge and skill of new real estate licensees in order to see these numbers decrease.

*Continued on Page 9*



## From the Director's Desk

By: Michael W. Wooden,  
Executive Director

### ***Rhonda K. Richardson Appointed General Counsel***

It is my great pleasure to introduce to you Rhonda K. Richardson. At a Special meeting on February 25th, the Commission voted to appoint Ms. Richardson to the position of General Counsel. The appointment will be effective on March 16, 2015.

Rhonda will replace Ronald J. Harris, Jr., who is leaving KREC and taking a new position as president of King + Company, Certified Public Accountants. As we welcome Rhonda to her position, at the same time we want to acknowledge and thank Ronnie for the legal expertise and service he provided to the KREC as General Counsel. It has been a great pleasure to work with Ronnie. He will be greatly missed and all of us at the Commission wish him great success in his new venture.

We are very fortunate to have Rhonda Richardson join the KREC team. She brings a wealth of legal knowledge and experience to the agency.

Rhonda is a graduate of the Louis D. Brandeis School of Law at the University of Louisville, having received her Juris Doctorate Degree in 1983. Prior to graduating law school, in 1977 she received her Bachelor of Arts Degree, majoring in Psychology, at Fisk University in Nashville, Tennessee.

She brings impressive professional experience and skills to the position of General Counsel. Beginning in 2013, Rhonda formed a private law practice, Fresh Start Legal Counsel where she was a solo practitioner providing legal counsel and representation in the areas of business law, real estate, and family law. From 2004 to 2013, she helped build a successful law firm in Denver, Colorado. From 2000 to 2003, Rhonda worked for Lexis Nexis Publishing Company in Colorado Springs as a case law editor.

In addition to working in the private sector, Rhonda also has many years experience working for the Commonwealth of Kentucky from 1994 - 2000. She served as Associate General Counsel assigned to the

Workforce Development Cabinet and was Chief Commissioner of the Unemployment Insurance Commission. She worked for the Department for Employment Services as a Commissioner and Director for Field Services. At the Public Service Commission she served as an attorney. Rhonda also served in the elective office as 10th Ward Alderman for the City of Louisville from 1990 - 1994.

Rhonda is a member of the Kentucky Bar Association and is licensed to practice law in Kentucky and Colorado.

As KREC's General Counsel, Rhonda's major responsibilities include supervision and assignment of Legal Department employees, legal analysis and advice to commissioners and staff, management and review of all legal cases, drafting proposed legislation and administrative regulations, providing legal responses to inquiries from licensees and consumers, and developing and maintaining professional contacts and communications with national, state and local professional real estate associations and organizations and related entities.

Rhonda says, "I am very excited to have been selected as General Counsel and to join the KREC family. I look forward to getting to know the commissioners and staff and working to assist Kentucky's real estate licensees and consumers. I sincerely appreciate the confidence the commissioners have demonstrated in selecting me as their General Counsel. I am overwhelmed by the welcoming spirit shown to me by the commissioners and KREC staff."

On behalf of everyone at the Commission, Rhonda, welcome aboard!



*Rhonda K. Richardson  
KREC's New General Counsel*



## KREC Commissioners



Jim Huff, Chair



Bob Roberts, Vice-Chair



Linda Gibson Cecil



Kim Sickles



Dana W. Anderson

# KREC “HOTLINE” FAQ *Bank Fees & Escrow Accounts*

By: Y. Denise Payne Wade  
KREC Staff Attorney

In late 2014, a very frequently-asked question was received by the Commission's Legal Department. It came from several different principal brokers who were seeking Commission guidance for a dilemma they were facing, which resulted from bank fees being charged to their escrow accounts. The dilemma, which was addressed by the Commission at its November 20, 2014 meeting, is described in the following question, which was presented during that meeting. It is followed by guidance from the Commission.



## QUESTION

*I am seeking guidance on what I can do about bank fees on our real estate escrow account. In prior years the bank would waive the account service fees because it is an escrow [account] and they understood that the purpose of this account is to hold 'other people's monies.' Effective August 1, 2014 all the policies have changed and they no longer can waive these fees. The required minimum balance to hold in the escrow account is \$1500.00. We do not have a \$1500.00 balance and do not have that much of escrow funds.*

*Can...I deposit 'personal monies' into this account to bring the balance up to the minimum amount of \$1500.00 to prevent a monthly service charge of \$14.00 per month? I have checked with other banks and they all have the new policies in effect as well....*

## COMMISSION GUIDANCE

A principal broker is allowed to deposit personal funds into his or her escrow account to meet a bank's minimum balance requirements and fees for these accounts, IF, AND ONLY IF: (1) the personal funds that are deposited into the escrow account belong to the principal broker only and (2) the principal broker documents an accurate accounting of the deposit in his or her escrow account ledger(s).



## **“TEASER” Postings on Facebook and the Advertising Issues They Raise**

*By: Y. Denise Payne Wade  
KREC Staff Attorney*



At its December 18, 2014 meeting, the Commission discussed “teaser” postings on Facebook and the issues they raise. The discussion stemmed from the Commission’s review of a licensee’s emailed question regarding the use of such postings on Facebook, and other social media. In the question, which also mentions the use of “coming soon” signs, the following example of a “teaser” post is provided: “[L]isting a terrific home on 5 acres this weekend. Stay Tuned!” The information below should clarify the apparent confusion over when the advertising requirements apply.

Simply stated, the central issue is whether a particular posting on Facebook, or any other social media, is or is not an advertisement or promotion of a particular piece of property. Factors to be considered in making this determination include whether or not there is a specific description, picture, or any other identifying information about a particular piece of property in the licensee’s teaser posting. (In the above example, there is no such information.) If such information appears in the posting, then the advertising requirements would likely apply. Regarding those requirements, the following reminders are provided:

- Print advertisements (which include “coming soon” signs) are governed by KRS 324.117 and 201 KAR 11:105;
- Internet advertisements (which include “advertisements” on Facebook and other social media) are governed by KRS 324.117(1) and 201 KAR 11:420; and
- To advertise or promote property by any means, including the use of “coming soon” signs/advertisements, a licensee must have a signed listing agreement that satisfies the requirements of 201 KAR 11:250. In other words, a licensee is prohibited from running any advertisement, including a “coming soon” advertisement, for unlisted property.

Finally, whether or not a “teaser” posting has crossed the “advertisement” line, in violation of advertising requirements, is a matter that is decided by the Commission on a case-by-case basis, if a complaint is filed with the Commission.

## **Mark Your Calendar for July 16, 2015! Commission Meeting Being Held at Pennyrile Forest State Park**

For many years, the KREC has taken the Commission meeting on the road. This is a wonderful opportunity for licensees who have never experienced a Commission meeting to attend and see firsthand how decisions are made. The KREC welcomes licensees in the area to meet the commissioners and staff. Each meeting has an “Open Forum” giving licensees and attendees the opportunity to express concerns and comments. The meeting begins at 9:00 a.m. Central Standard Time.



Pennyrile Forest State  
Resort Park  
20781 Pennyrile Lodge Road  
Dawson Springs, KY 42408  
(270) 797-3421

## Rice Insurance Services Company, LLC Awarded Group E & O Contract

The KREC is pleased to announce that Rice Insurance Services Company, LLC (RISC), has been awarded the group errors and omissions insurance program for license year 2015/2016. Principal brokers were provided detailed information about the program in the KREC renewal package mailed in February. The group premium for 2015/2016 is \$122.00 (plus a surcharge, applicable taxes and a processing fee). The premium is a slight decrease from the 2014/2015 premium of \$128.00. The insurance carrier, Continental Casualty Company, a CNA insurance company, is rated "A" Excellent by A.M. Best, with Rice Insurance Services Company, LLC being the policy administrator.

Licensees are encouraged to read their policy and understand the coverage and exclusions. A sample policy can be found on RISC's website ([risco.com](http://risco.com)). For specific policy questions, please contact RISC directly at 502-897-1876 or Toll-Free at 800-637-7319.

### *Highlights of the group program policy include:*

<b>Limits of Liability</b>	\$100,000 per claim / \$1,000,000 aggregate w/ no deductible for damages or defense costs	\$122, plus municipal taxes and KY surcharge
<b>First Dollar Defense</b>	Applies WITH NO CONDITIONS to all covered claims	Automatically included
<b>Defense Outside Limits</b>	There is NO LIMIT on the amount of defense costs the carrier will pay in connection with claims covered under the basic policy limits	Automatically included
<b>Risk Reduction Material</b>	We incorporate our knowledge of the policy and extensive claims handling experience into educational articles and videos.	Automatically included
<b>Insured Professional Services</b>	The definition of professional services includes licensed activity, including broker price opinions, property management, leasing, and renting	Automatically included
<b>Firm / Franchise Coverage</b>	Real estate firm and franchisor included in the definition of insured	Automatically included
<b>Spousal Coverage</b>	Licensee's spouse or domestic partner considered an insured in certain situations	Automatically included
<b>Retroactive / Prior Acts Coverage</b>	Insures prior transactions, provided you have maintained continuous real estate E&O insurance from the date of the professional services to the date the claim is first made	Automatically included
<b>Discrimination / Fair Housing Coverage</b>	\$10,000 per claim / \$10,000 aggregate sublimits (damages & defense costs, combined) for covered discrimination / fair housing claims	Automatically included
<b>Environmental Coverage</b>	\$5,000 per claim / \$10,000 aggregate sublimits (damages & defense costs, combined) for covered environmental claims	Automatically included
<b>Escrow/Earnest Money Coverage</b>	\$2,500 per claim / \$5,000 aggregate (defense costs) for covered escrow / earnest money claims	Automatically included
<b>Lock Box Coverage</b>	\$5,000 per claim / \$10,000 aggregate sublimits (damages & defense costs, combined) for covered lock box claims	Automatically included
<b>Regulatory Complaints Coverage Endorsement</b>	\$2,500 per regulatory complaint / \$5,000 aggregate (defense costs)	Automatically included
<b>Primary Residence Claim Coverage</b>	Provides coverage for the sale or listing for sale of your primary residence, provided the sale or listing is performed through your principal broker	Automatically included
<b>Territory</b>	For licensees domiciled in KY, the policy applies to professional services provided anywhere in the world, provided the licensee is duly licensed in the state where services were provided, and the services would require a real estate license had they been performed in KY. Licensees not actually domiciled in KY or not considered to be domiciled in KY under the policy terms are insured only for professional services rendered in KY.	Automatically included





# Disciplinary Actions

**Jackie K. Griffie**

Case No. 14-0013 (Hazard)

**Violation:** Ms. Griffie failed to file her sworn answer to a Commission-initiated complaint that resulted from her failure to pay a fine in Case #10-0143.

**Disposition:** Pursuant to a default judgment, Ms. Griffie's license was revoked.

**William D. Dyer**

Case No. 12-0102 (Ashland)

**Violation:** Mr. Dyer stipulated to a violation of KRS

324.160(4)(b)(h)(u)(v) and (t) for violating 201 KAR 11:121, Section 1(4), as charged, while acting in the dual capacity of a listing agent and a limited power of attorney for an out-of-state elderly seller-client. These violations stem from Mr. Dyer's failure to provide a closing statement to his seller-client, along with a circuit court action in which Boyd Circuit Court found, by default, that Mr. Dyer had "perpetrated fraud" on his seller-client, breached their listing contract, and breached fiduciary duties owed to the seller-client.

**Disposition:** The Commission and Mr. Dyer agreed that revocation is the appropriate sanction for the violations. However, the parties also agreed that the revocation is probated for twelve (12) months, beginning with the acceptance of the Agreed Order. This agreement stemmed from the dismissal of the circuit court action and Mr. Dyer's full satisfaction of the civil judgment awarded in same. In addition, Mr. Dyer agreed to pay a fine in the amount of one thousand dollars

(\$1,000.00) and not to, directly or indirectly, act in the dual capacity of power of attorney and licensee for any client or customer involved in a Kentucky real estate transaction. Mr. Dyer also agreed to accept a formal reprimand. Finally, the parties agreed that revocation of Mr. Dyer's license shall be the appropriate Commission-imposed sanction, if its pending investigation in a separate case reveals any license law violation(s) that is/are proven in that proceeding.

**Charles R. Marra**

Case No. 14-0045 (Louisville)

**Violation:** Mr. Marra stipulated to a violation of KRS 324.160(4)(t), for violating 201 KAR 11:230, by failing to complete the requirements of his 2013 Continuing Education Delinquency Plan & Agreement.

**Disposition:** Mr. Marra's license shall be, as agreed, changed from "canceled" to "voluntarily surrendered for one (1) year, in lieu of suspension," beginning upon the acceptance of his Agreed Order by the Commission. Upon the expiration of the one (1)-year period of surrender, Mr. Marra shall meet the requirements for initial licensure, including retaking and successfully completing the required examination for same, if he, thereafter, desires to engage in real estate brokerage in Kentucky.

**Harold E. Akers, Jr.**

Case No. 12-0055 (Mt. Sterling)

**Violation:** Mr. Akers stipulated that he violated KRS 324.160(4)(t) by violating a lawful Order of the Commission requir-

ing him to pay the Commission-approved fine imposed in Case No. 09-0202 and by failing to file his Sworn Answer in this case, as required under KRS 324.151.

**Disposition:** The Commission and Mr. Akers agreed that his license should be suspended for six (6) months as an appropriate sanction for his violations.

However, the parties agreed that the suspension shall be probated for fifteen (15) months, as long as he fully and strictly complies with all terms and conditions set out in his Agreement of Probation.

Under the terms of same, Mr. Akers agreed to pay a fine in the amount of fifteen hundred dollars (\$1,500.00), representing the one thousand dollar (\$1,000.00) fine imposed in Case No. 09-0202 and an additional five hundred dollar (\$500.00) fine, imposed in this case.

**Paul F. Mik**

Case No. 13-0064 (Brandenburg)

**Violation:** Mr. Mik stipulated to a violation of KRS 324.160(4)(u) and (t), for violating KRS 324.111, by failing to deposit a buyer-client's contract deposit into his escrow account and by improperly returning the funds to his buyer-client, approximately six (6) weeks after his receipt of same, with knowledge that, at that time, the parties' contract was the subject of a pending civil action.

**Disposition:** The license of Mr. Paul F. Mik, Jr. is suspended for six (6) months and he shall pay a fine in the amount of one thousand dollars (\$1,000.00) to the Commission.

## Disciplinary Actions

*Continued from Page 7*

### Shelia V. Jones

Case No. 14-0040 (Winchester)

**Violation:** Ms. Jones stipulated to a violation of KRS 324.160(4)(t), for violating 201 KAR 11:230, by failing to comply with the requirements of her 2013 Continuing Education Delinquency Plan & Agreement.

**Disposition:** Ms. Jones agreed to have her license voluntarily surrendered for six (6) months.

### Gerry Whalen

Case No. 12-0038 (Cynthiana)

**Violation:** Ms. Whalen stipulated to a violation of KRS 324.160(4)(t) for violating 201 KAR 11:245 by failing to produce a recent property management agreement for a piece of property that was to have been maintained according to specific instructions relative to the declining economic conditions of the area.

**Disposition:** Ms. Whalen agreed to pay a fine to the Commission in the amount of five hundred dollars (\$500.00). She also agreed to successfully complete six (6) hours of continuing education, in

law, in addition to any hours she is otherwise required to complete.

### Kathy Kelly-Jacobs

Case No. 14-0047 (Atlanta, GA)

**Violation:** Ms. Kelly-Jacobs stipulates to a violation of KRS 324.160(4)(t), for violating 201 KAR 11:230, by failing to comply with the requirements of her 2013 Continuing Education Delinquency Plan & Agreement.

**Disposition:** Ms. Kelly-Jacobs agreed to pay a fine to the Commission in the amount of five hundred dollars (\$500.00) and to accept a formal reprimand. As part of the Agreed Order, Ms. Kelly-Jacobs was also required to complete the 6-hour Kentucky Core Course, to satisfy her delinquent 2013 continuing education requirement.

### Nicole A. Irwin

Case No. 14-0048 (Maineville, Ohio)

**Violation:** Ms. Irwin stipulated to a violation of KRS 324.160(4)(t), for violating 201 KAR 11:230, by failing to comply with the requirements of her 2013 Continuing Education Delinquency Plan & Agreement.

**Disposition:** Ms. Irwin agreed to pay a fine to the Commission in

the amount of five hundred dollars (\$500.00) and to accept a formal reprimand.

### David S. Bowen

Case No. 14-0041 (Goshen)

**Violation:** Mr. Bowen stipulated to a violation of KRS 324.160(4)(t), for violating 201 KAR 11:230, by failing to comply with the requirements of his 2013 Continuing Education Delinquency Plan & Agreement.

**Disposition:** Mr. Bowen agreed to pay a fine to the Commission in the amount of seven hundred fifty dollars (\$750.00), to satisfy his delinquent 2013 continuing education requirement, and to accept a formal reprimand.

### Tonya W. Holland

Case No. 14-0042 (Eddyville)

**Violation:** Ms. Holland stipulated to a violation of KRS 324.160(4)(t), for violating 201 KAR 11:230, by failing to comply with the requirements of her 2013 Continuing Education Delinquency Plan & Agreement.

**Disposition:** Ms. Holland agreed to pay a fine to the Commission in the amount of five hundred dollars (\$500.00) and to accept a formal reprimand.

## 2015 Commission Meeting Schedule

*All meetings are held at the KREC Offices in Louisville, KY, unless otherwise noted below.*

February 26, 2015

August 27, 2015

March 26, 2015

October 15, 2015

April 23, 2015

*(Half-Century Licensee Awards Luncheon)*

May 21, 2015

November 19, 2015

July 16, 2015  
(Dawson Springs, KY)

December 17, 2015

## Licensee Statistics

### Active Brokers

4,135

### Active Sales Associates

8,378

### Escrow Brokers

1,166

### Escrow Sales Associates

8,179



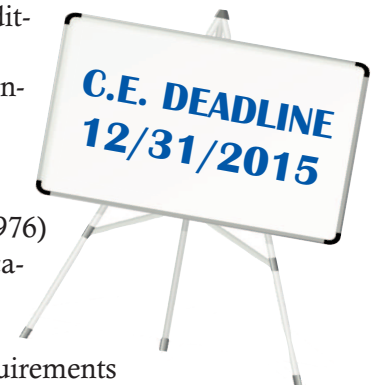
# Continuing Education **B L O O P E R s!**

Although the number of delinquent continuing education licensees has been steadily going down over the past several years, we still have licensees making some of the same mistakes with regard to the continuing education requirements. Some of the most common mistakes are:

1. Taking six (6) hours of continuing education when it is the licensee's year to take the Kentucky Core Course. Remember, the Core Course must be taken once every four (4) years.
2. Confusing Board of REALTOR® requirements with KREC requirements. They are different!
3. Taking six (6) hours of continuing education, but failing to make sure that three (3) of the required six (6) hours in are approved for of law credit. Licensees must have three (3) hours of law each year.
4. Taking a course with the word "law" in the course title and assuming it is approved for law credit. Check the KREC Database to ensure the course you took was approved for law credit.
5. Waiting until the end of the year to take continuing education and not being able to get in a class. Plan ahead and take continuing education early in the year.
6. Taking an online course, and not finishing the final exam, and/or not completing the evaluation AND signing the affidavit. All of these steps must be completed before the provider will submit the completion certificate to the KREC for C.E. credit.

Please check the KREC website to ensure the hours you have taken are credited, approved, and are the required hours for your specific year. The KREC "Licensee Database" tab is a terrific resource to check your individual continuing education record. In short, a few minutes on the computer could save you \$500!!

As a reminder, all active licensees (except those licensed prior to June 19, 1976) must complete 6 hours (3 of the 6 hours must be in law) of continuing education by December 31, 2015. Those same licensees must also complete the Kentucky Core Course once every four (4) years. To date, we have 8,747 licensees who have not fulfilled their regular 2015 continuing education requirements and 2,060 licensees who still need to take the Kentucky Core Course.



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## Comments from the Chair

*Continued from Page 2*

On behalf of KREC, I want to thank the Kentucky Association of REALTORS® for their leadership in helping to develop the legislation and by implementing an effective "grassroots" membership initiative in support of House Bill 149. We at KREC appreciate the efforts of the many real estate licensees and educators who took the time to contact their state representa-

tives asking for support of the legislation. We now ask that those advocacy efforts be continued as House Bill 149 is considered by the Senate.



After the legislative session, provided we are successful in passing House Bill 149, KREC staff will begin the process of developing administrative regulations to implement the legislation. The Commission will involve a broad spectrum of real estate licensees and educators who will be asked to lend their expertise in drafting the regulations.